

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Mourer-Foster, Inc.  
System ID No. 0005088

Enforcement Case No. 06-3927

John T. Foster  
System ID No. 0065654

Respondents

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*Issued and entered*  
on 4 January, 2007  
by Frances K. Wallace  
Chief Deputy Commissioner

**CONSENT ORDER AND STIPULATION**

**A. ALLEGATIONS OF FACTS**

The staff of the Office of Financial and Insurance Services ("OFIS") alleges that the following facts support its position:

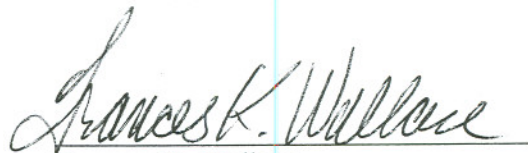
1. At all times pertinent, Mourer-Foster, Inc., ("Respondent Agency") was a licensed resident producer with qualifications in Accident and Health, Casualty, Life, and Property insurance in the State of Michigan.
2. Respondent Agency is located at 615 N. Capitol Ave., Lansing, Michigan 48933.
3. At all times pertinent, John T. Foster ("Respondent Agent") was a licensed resident producer with qualifications in Accident and Health, Casualty, Life, and Property insurance in the State of Michigan.
4. Respondent Agent is located at 2561 Meadow Woods Drive, East Lansing, Michigan 48823.

5. As licensed resident producers in the State of Michigan, Respondents knew or had reason to know that Section 1207(1) & (2) of the Insurance Code, MCL 500.1207(1) & (2), states that insurance agents owe their clients a fiduciary obligation to pay funds in a timely manner and that the agents shall use reasonable accounting methods.
6. Respondents further knew or had reason to know that Section 1239(1) (h) of the Insurance Code, MCL 500.1239(1)(h), prohibits the use of fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of insurance business in the State of Michigan.
7. Respondents further knew or had reason to know that Section 2008(3) of the Insurance Code, MCL 500.2008, provides that not remitting money owed on a timely basis is an unfair or deceptive act or practice.
8. On information and belief, on October 13, 2004, [redacted] and [redacted] had a credit balance due of \$1,268.75. This credit was returned or applied to a new policy or endorsement on March 9, 2005.
9. On information and belief, on October 20, 2004, [redacted] had an audit balance of \$12,629.00. The balance was returned to [redacted] in two installments, one January 24, 2005 and the other on April 11, 2005.
10. On information and belief, on December 3, 2002, [redacted], cancelled an auto policy and was owed a balance of \$7,405.09. This balance was returned on April 11, 2005.
11. On information and belief, on October 16, 2003, [redacted] was owed \$33,250.00 on a final automobile and liability audit. These funds were returned on April 7, 2005.
12. On information and belief, on October 4 and 6, 2004, [redacted] had a workers' compensation and general liability audit completed and were owed \$2,793.00. These funds were returned on January 24, 2005.
13. On information and belief, on January 30, 2004, a workers' compensation audit was completed for [redacted] that resulted in a balance owed of \$40,056.66. This balance was returned on March 30, 2005.
14. The staff of the Office of Financial and Insurance Services alleges that Respondents have failed to comply with Sections 1207(1) & (2), 1239(1)(h), and 2008(3) of the Insurance Code, MCL 500.1207(1) & (2), 500.1239(1)(h), and 500.2008(3) and are, therefore, subject to penalty pursuant to Section 1244(1) of the Insurance Code, MCL 500.1244(1).

**B. ORDER**

Based on the Allegations of Fact above without adjudication of such and Respondents' Stipulation, it is **ORDERED** that:

1. Respondents shall immediately cease and desist, if they are in violation, from operating in such a manner as to violate Sections 1207(1) & (2), 1239(1)(h), and 2008(3) of the Insurance Code, MCL 500.1207(1) & (2), 500.1239(1)(h), and 500.2008(3).
2. Respondents shall update their customer credit balance return policy.
3. Respondents shall provide all staff training on best practices and computer entry procedures to ensure applicant/insured premiums or refunds are timely paid or returned to the applicant/insured.
4. Respondent Mourer-Foster, Inc. shall pay to the State of Michigan a market conduct fee of Three Thousand Dollars (\$3,000.00). Upon execution of this Order, OFIS will send Respondent an Invoice for the fee, which will be due within 30 days of issuance of the Invoice.
5. Respondent John T. Foster shall pay to the State of Michigan a market conduct fee of Three Thousand Dollars (\$3,000.00). Upon execution of this Order, OFIS will send Respondent an Invoice for the fee, which will be due within 30 days of issuance of the Invoice.



Frances K. Wallace  
Chief Deputy Commissioner  
Office of Financial and Insurance Services